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| AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT | | 1. CONTRACT ID CODE | PAGE OF PAGES 1 2 |
| 2. AMENDMENT/MODIFICATION NO. A061 | | 3. EFFECTIVE DATE See Block 16C | 4. REQUISITION/PURCHASE REQ. NO. WPAS-NOPR |
| 5. PROJECT NO. (If applicable) | | 6. ISSUED BY CODE | |
| 7. ADMINISTERED BY (If other than Item 6) CODE | | 8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and Zip Code) | |
| Bechtel Nevada P.O. Box 98521 Las Vegas, NV 89193-8521 <div style="border: 2px solid black; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">EXECUTED COPY</div> | | (v) 9A. AMENDMENT OF SOLICITATION NO. | |
| | | 9B. DATED (SEE ITEM 11) | |
| | | 10A. MODIFICATION OF CONTRACT/ORDER NO. | |
| | | X DE-AC08-96NV11718 | |
| 10B. DATED (SEE ITEM 73) | | CODE FACILITY CODE | |

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:
 (a) By completing Items 8 and 15, and returning copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

| | |
|----|--|
| A. | THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. |
| B. | THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). |
| X | C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Contract Clauses B.6 "Option to extend the Term of the Contract," B.3, "Estimated Cost and Fee," FAR 52.219-9, "Small Business Subcontracting Plan" (Now I.12), DEAR 970-5204-54, "Basic Fee and Award Fee" (Now 1.105, 970.5204-54, "Total Available Fee: Base Fee Amount and Performance Fee Amount") and mutual agreement of the parties. |
| D. | OTHER (Specify type of modification and authority) |

E. IMPORTANT: Contractor is not, X is required to sign this document and return 3 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

See attached Page 2 of 2.

| | | | |
|--|-----------------------------------|--|----------------------------------|
| 15A. NAME AND TITLE OF SIGNER (Type or print) John T. Mitchell President & General Manager | | 16. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Kenneth W. Powers Contracting Officer | |
| 15B. CONTRACTOR/OFFEROR () () <i>(Signature of person authorized to sign)</i> | 15C. DATE SIGNED 21 OCT 99 | 16B. UNITED STATES OF AMERICA BY () () <i>(Signature of Contracting Officer)</i> | 16C. DATE SIGNED 10/21/99 |

This modification does the following:

- In accordance with Contract Clause B.6, "Option to Extend the Term of the Contract," extends the period of performance of this contract by four years nine months to a total of nine years and nine months beginning January 1, 1996, and continuing through September 30, 2005. The estimated cost for the four year/nine month extension is \$1,425,000,000 for a total estimated cost for nine years/nine months of \$2,925,000,000.
- In accordance with DEAR 970-5204-54, "Basic Fee and Award Fee" (Now I. 105, 970.5204-54, "Total Available Fee: Base Fee Amount and Performance Fee Amount"), incorporates in Contract Clause B.3, "Estimated Cost and Fee," the FY 2000 negotiated available performance fee amount of \$19,500,000 on a total estimated cost of \$3 1 0,000,000.
- Incorporates the FY 2000 Subcontracting Plan into Section J, Appendix E.
- Updates numerous clauses based on regulatory changes as well as changes to local requirements. As such, enclosed is a complete copy of Contract No. DE-AC08-96NV11718 as modified. Appendix I of Section J of the modified Contract provides a crosswalk of this modification to the original contract clauses.

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PART I - THE SCHEDULE

SECTION B SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 SERVICES BEING ACQUIRED

The Contractor shall, in accordance with the terms of this contract, provide the personnel, materials, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, providing its best efforts so as to carry out in an efficient and cost-effective manner all necessary related services to manage the programs and operate the facilities as described in Section C - Statement of Work in this Contract.

B.2 OBLIGATION OF FUNDS

The total amount of funds obligated under this contract, in accordance with the Clause I.83, "Obligation of Funds," is \$1,160,616,000.

B.3 ESTIMATED COST AND FEE

The estimated cost of the contract for the first five years is \$1,500,000,000. The estimated cost for the four year/nine month extension is \$1,425,000,000 for a total estimated cost for nine years/nine months of \$2,925,000,000. The total estimated cost and total available fee for each fiscal year will be established annually by the Government and set forth in a modification to this provision. A base fee and a maximum performance fee is payable in accordance with Clause I.105, "DEAR 970.5204-54, Total Available Fee: Base Fee Amount and Performance Fee Amount (April 1999)."

For the period October 1, 1999 through September 30, 2000:

| | |
|---------------------------|----------------------|
| Estimated Cost | <u>\$310,000,000</u> |
| Available Performance Fee | <u>\$ 19,500,000</u> |

Pursuant to Clause H.32, "Provisional Payment of Incentives", the Contractor is hereby authorized a provisional fee of \$487,500 which is payable at the end of each month during FY 2000 pending final determination of the fee earned for FY 2000.

B.4 INCENTIVE FEE

In recognition of the performance-based nature of this contract, it is understood that there may be instances where, at the sole and exclusive discretion of DOE, in order to incentivize specific performance(s), the DOE may negotiate incentive fee(s) sufficient to provide adequate compensation for any incentivized performance requirements that may arise during the course of the contract.

B.5 AVAILABILITY OF APPROPRIATED FUNDS

Except as may be specifically provided to the contrary in this contract in Clause I.73, "Nuclear Hazards Indemnity Agreement," the duties and obligations of the Government hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which the Department of Energy may legally spend for such purposes. This clause is not meant to supersede or modify Clause I.83, "Obligation of Funds" or other clauses similarly worded which provide that DOE will

use its best efforts to obtain appropriation of funds.

B.6 OPTION TO EXTEND THE TERM OF THE CONTRACT

- (a) The Department of Energy may unilaterally extend the term of this performance-based management contract by written notice to the Contractor not less than 60 days prior to expiration of the term of this contract; provided, that the Department of Energy shall give the Contractor a preliminary written notice of its intent to extend at least twelve (12) months before the basic term of the contract expires. The preliminary notice does not commit the Department of Energy to an extension.
- (b) The option(s) to extend the contract is as follows:
 - (1) The period of performance may be extended for an additional five years, or in increments not to exceed an additional five years.
 - (2) The work to be performed during any option period(s) shall be in accordance with Clause B.1, "Services Being Acquired"

The Department of Energy may exercise any, or all, of the options identified in the contract. The total duration of this contract, including the exercise of any option(s) under this clause, shall not exceed 120 months.

SECTION C

DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 GENERAL PROGRAMMATIC AND MANAGEMENT INFORMATION

For over 40 years the Department of Energy Nevada Operations Office (DOE/NV) and its three largest Management and Operating (M&O) contractors worked in a synergistic partnership with a wide variety of customers and users to focus on the support of one dominant mission, that of nuclear weapons testing, primarily at the Nevada Test Site (NTS). Numerous other research and development activities were also supported such as the Hazmat Spill Center, Nuclear Emergency Search Team (NEST), Remote Sensing Laboratory (RSL), and Environmental Management (EM) efforts. In addition, the NTS has been designated as a National Environmental Research Park. However, the end of the Cold War and the resulting evolution of national security needs, most notably centered on the cessation of nuclear testing, brought about fundamental changes in the mission support responsibilities assigned to DOE/NV and its contractors. By far the most significant of these needs is the requirement to maintain the safety and reliability of the nuclear weapons stockpile in spite of the moratorium on underground nuclear weapons testing and the national commitment to a comprehensive ban on future nuclear weapons tests. In response to the dynamic program of refocusing and restructuring that was brought about by these historic developments, and while maintaining readiness to resume nuclear weapons testing in a specified period of time (should the need occur), DOE and its contractors instituted innovative approaches to the management and conduct of all its programmatic responsibilities. This included those not directly related to nuclear weapons stewardship. Though the missions now appear more stable in their goals and requirements, there remains a need for solid but flexible management approaches to ongoing execution and evolution.

C.2 GENERAL MANAGEMENT OBJECTIVES

DOE/NV support of the nation's nuclear weapons testing and various other technical missions produced a multifaceted infrastructure of highly trained personnel, facilities, and equipment which is refocused and sized to cost-effectively support nuclear stockpile stewardship and the other critical missions assigned to DOE/NV.

The Contractor in cooperation with DOE/NV shall work simultaneously in close working relationship with a wide variety of organizations, i.e. National Laboratories and other DOE integrated contractors, other Federal agencies, state and local agencies, private sector businesses, educational institutions, and the general public. The close working relationships between DOE integrated contractors is facilitated by formal arrangements whereby one DOE integrated contractor may provide technical direction (reference Clause H.24, "Technical Direction") to another DOE integrated contractor.

For the Stockpile Stewardship Mission, the Contractor is expected to recognize the importance of the historical, close working relationship with the National Laboratories that permits the successful accomplishment of Mission objectives. Since the details of these Mission objectives are almost always established and comprehensively understood on a scientific basis by the National Laboratories, and most often support broader Laboratory objectives, projects supported by the Contractor within the Stockpile Stewardship Mission, are most frequently accomplished by integrated contractor teams consisting of Laboratory and Contractor participants with complementary skills. Within the context of

these teams, and to the extent consistent with this contract and with direction provided by the Contracting Officer or designee, DOE/NV draws on the best capabilities from each participating organization, assuring Mission success in the most cost effective manner possible. The Contractor is expected to organize, staff, and manage their assigned scope of work to optimize this approach and to meet all DOE/NV expectations.

Contractor support will be required to meet DOE/NV's programmatic responsibilities which are focused around, but not necessarily limited to, the following business lines: Defense Experimentation and Stockpile Stewardship; Nonproliferation and Emergency Response; Alternate Energy; Environmental Management; Special Nuclear Material Management; Work for Others; Support to the Yucca Mountain Project (YMP), and Support to DOE Headquarters.

Appropriate attention to environmental, safety, and health concerns is a DOE core value and a critical success factor in the DOE operations. Consequently, performance of work under this contract shall be planned and conducted in a manner that is protective of the environment and the health and safety of employees and the public. The Contractor shall comply with applicable environmental, safety and health requirements including applicable Federal, state and local laws and regulations, DOE directives, applicable permitting and reporting requirements and appropriate industry consensus standards. The Department's Work Smart Standards Process, or acceptable alternative, will be used to review the scope of work and identify the Standards to govern the work in a safe, yet cost-effective manner. As the scope of work or requirements documents change, the Work Smart Standards Process, as delineated in DOE M 450.3, will be used to modify the standards that govern the work.

The Contractor shall maintain an ES&H site management plan which reflects the integration of environment, safety, and health considerations as an integral part of its mission execution. The plan shall detail how the Contractor and subcontractors will establish clear environmental, safety and health priorities and manage activities in proactive ways that effectively provide protection of the environment and to the public and worker safety and health.

The Contractor shall use incentives, productivity goals and performance measures to hold managers and workers accountable for performance and ensure that work is properly prioritized and accomplished in a safe, secure, environmentally sound and cost-effective manner.

The Contractor will be expected to challenge the status quo and alter existing paradigms in order to formulate and implement a wide variety of safe, innovative, entrepreneurial, and cost-effective management initiatives in support of the Department's contract reform goals. All work shall be conducted by the Contractor in a manner which is safe, promotes and improves productivity, enhances diversity, minimizes waste, and meets quality, technical, schedule, and budget requirements.

Much of the work will be performed in circumstances characterized by the need for rapid responses to constantly evolving mission requirements. Consequently, the Contractor will be expected to work with its partners and customers to understand future requirements and to plan for, lead, and manage change rather than merely respond to it. A part of this effort will be a requirement for managing a responsive, forward looking strategic planning capability with the ability to identify, plan for, and respond to increases or decreases in assigned missions or activity levels.

Assigned activities will be conducted or managed by the Contractor in the most cost-effective manner commensurate with established Departmental and environment, safety, and health requirements. Consequently, based upon the results of its own rigorously

conducted analyses of the comparable costs of performing work with its own staff versus utilizing the specialized skills of other organizations, it is anticipated that support subcontracting may be determined to be the preferred approach for accomplishing key portions of the contract work. The Contractor shall assure that to the maximum feasible extent, the subcontracts utilize such concepts as fixed price, cost plus incentive fee, cost-risk sharing arrangements, or other performance based incentives and measures.

The Contractor is to emphasize objective, measurable performance requirements and quality standards in selecting subcontractors, and measuring their performance. The subcontracting strategy shall provide for effective competition, assuring applications of best value concepts, and the maximum encouragement and utilization of small and small disadvantaged businesses in enthusiastic support of the Department's diversity goals.

The Contractor will be required to demonstrate an organizational commitment to the effective implementation of total quality management such that it results in continuous improvement in cost reduction and quality enhancement in the performance of assigned responsibilities.

Within the framework of these general management objectives, the Contractor shall manage, operate, provide services and maintain the facilities in accordance with work programs approved in writing by the Contracting Officer or designee and other written directions or instructions that may be provided by the Contracting Officer or designee.

Contractor has sole responsibility for specific assignment of personnel throughout their organization to accomplish the assigned scope of work and to achieve performance objectives, subject only to the notification requirements of Clause H.2 of this contract for "key personnel". It is recognized that changes in personnel and/or assignments for personnel may be prompted for a wide variety of reasons, including but not limited to the following:

- (a) There is a continuing need to match technical and/or management skills of the staff against the dynamics of scope, schedule, and budget. This provides for optimizing performance.
- (b) There is need from time-to-time to infuse new ideas and innovative thinking into challenging aspects of the work through new assignments.
- (c) Highly motivated and capable personnel need to develop through new and varying challenges. Frequently such challenges are not available in current assignments.
- (d) Maintaining the status quo in the workforce can, under some circumstances, lead to carelessness or sub-optimized production and performance.
- (e) Reassignments have proven to be an effective means for transfer of "lessons learned" from one operation to another.

Notwithstanding these factors and when making staffing changes, Contractor must consider the need for a stable workforce in the important missions that are sponsored by DOE/NV. This need is associated with unique technical and management aspects of these missions and the need to maintain an adequate staffing level within commensurate critical skill sets.

Contractor support of the Stockpile Stewardship program is of uniquely critical significance from the standpoint of national security. Therefore, consistent with the expectation for close communication and coordination among the Contractor, DOE/NV,

and the National Laboratories as described in Clause H.24, "Technical Direction", the Contractor will make a good faith effort to communicate anticipated, significant changes in staffing or organizational structure as early as reasonably feasible.

C.3 GENERAL DESCRIPTION OF DOE/NV BUSINESS LINES TO BE SUPPORTED

The following provides a general description of DOE/NV's eight business lines. It is intended to be broadly descriptive of, but not limited to, the nature of the DOE/NV missions to be supported.

(a) Defense Experimentation and Stockpile Stewardship

The Contractor shall provide, in close working relationship with the National Laboratories and other experimenters/users, the isolated, fully infrastructure supported, test bed, and appropriate scientific, engineering, and technical staff, for the support of defense-related experiments of a variety of nuclear and other national security programs. This includes maintenance of a Presidentially mandated capability to resume underground tests within two to three years, including assurance of the availability of critical skills necessary to accomplish this program. In the absence of actual nuclear weapons tests, this will require fully supporting the stockpile stewardship program assigned to DOE/NV. Test readiness may also require a program of capability maintenance and demonstration exercises.

Based on the capabilities described above, the Contractor shall also provide similar technical and operational expertise in support of a wide variety of highly complex non-nuclear defense research and development experiments, such as conventional weapons demilitarization or testing, many of which must be conducted in isolated and/or hostile environments.

(b) Nonproliferation and Emergency Response

The Contractor shall provide, in close working relationship with other contractors, National Laboratories, and other federal, state, and local agencies, laboratory and field capabilities to assess threats and manage emergencies involving a variety of hazardous situations. A broad array of critical response resources (including ground based and airborne analytical and logistic capabilities) will be used to deter and detect the proliferation of nuclear weapons and devices, monitor suspect environmental and radiological sites, and aid in the remediation of contaminated locations both in the United States and abroad. This includes the provision of response and detection capability in the form of Nuclear Emergency Search Team (NEST), DOE Accident Response Group (ARG), and Federal Radiological Monitoring and Assessment Center (FRMAC), and other specialized groupings of relevant expertise as may from time-to-time be organized during the term of the Contract. This includes deployments and/or assistance anywhere in the world.

(c) Energy Efficiency and Renewable Energy

The Contractor shall support, in close working relationship with the private sector, national laboratories, universities, and other user/experimenters, appropriate areas of the NTS as an infrastructure-supported test bed for energy efficiency, and/or renewable energy research and development projects. Additionally the Contractor shall provide the talents, capabilities and mechanisms to evaluate, propose and implement other energy efficiency and renewable energy projects and proposals.

(d) **Environmental Management**

In close working relationship with DOE stakeholders, the Contractor shall support environmental restoration and waste management programs, as well as environmental research and technology development, that focus on environmental, safety, and health risks at all DOE/NV facilities. In addition, the Contractor shall manage the staging, storage, treatment, and disposal of wastes generated through operational and environmental restoration programs, at the NTS or other DOE locations. The Contractor shall minimize waste through pollution prevention and recycling activities. This program must meet currently established near and long-term environmental goals and regulations. It must also provide an entrepreneurial approach to identifying and developing ways in which the NTS/National Environmental Research Park (NERP) can become a nationally recognized center of excellence for environmental research and remediation, and waste management demonstrations, technologies, and operations.

The Contractor is expected to supply a systematic integrated management approach (Environmental Management system) to ensure implementation of the site-wide environmental objectives and compliance with all other applicable environmental legislation and regulations, including all cleanup and consent type agreements with other Federal or state and local agencies.

(e) **Special Nuclear Material Management**

In close working relationship with special nuclear material generators, regulators, and interested stakeholders, the Contractor shall provide the capability to implement a safe, environmentally sound, regulatorily compliant, cost effective, special nuclear materials management program. This includes management of a storage facility and utilization of existing nuclear weapons assembly capability and facilities.

(f) **Work for Others**

The Contractor shall utilize the unique resources and capabilities available for performance of the Contract to perform and manage a variety of reimbursable work for various public and private customers.

(g) **Support to Yucca Mountain Project (YMP)**

The Contractor shall provide support to YMP as requested by the Contracting Officer or designee.

(h) **Support to DOE Headquarters Office of Fossil Energy**

The Contractor shall administer a self-insured medical and dental plan(s) for the benefit of retired and displaced Naval Petroleum Reserves in California (NPRC) Management & Operating (M&O) contractor employees. It is recognized by the parties that various alternatives for providing medical and dental coverage, including a HMO, will be considered. (See Section J, Appendix H, entitled, "Advance Understandings for Naval Petroleum Reserves in California Medical and Dental Coverage")

C.4 ORGANIZATION OF THE STATEMENT OF WORK (SOW)

This SOW is divided into two Sections. Section I has two Parts. Part A addresses Essential Functions and Part B addresses Known Missions. Section II (without further subdivision) addresses Potential Missions.

Part A of Section I consists of Essential Functions which are defined as capabilities which will be required of this Contractor regardless of changes in missions or activity levels. This includes such things as maintaining physical assets and providing the core administrative infrastructure. There is an explicit reference to YMP for functions where services to YMP are provided. It is recognized that increased or decreased activity levels or the assignment of additional missions (see Section II below), would require appropriate reduction or expansion of these types of capabilities.

Part B of Section I consists of DOE/NV's five Known Missions which are defined as work being performed under DOE/NV's purview for the benefit of a customer who is providing resources and requirements. The Known Missions which this Contractor will be required to support are: Stewardship of the NTS; National Security (Stockpile Stewardship and Emergency Management and Nonproliferation); Environmental Management (Environmental Restoration and Waste Management); Technology Diversification; and Energy Efficiency and Renewable Energy.

Section II consists of Potential Missions which are defined as work that may be assigned to DOE/NV and which this Contractor would then be required to support. Since this Section attempts to deal with currently unknown future possibilities it must be recognized that this listing cannot be, and does not purport to be, all inclusive or completely accurate. It is intended as an indicator of the types of work which may be assigned to DOE/NV. The Contractor's ability to quickly and cost effectively support potential new or expanded missions of the sort described in Section II is expected to be a significant factor in the decision making process of potential work sponsors (i.e. DOE/HQ or other agencies) as they make their work assignment decisions. Support to YMP is included in this Section to facilitate the assignment by DOE/NV of expanded activity to the contractor.

C.5 SECTION I, PART A - ESSENTIAL FUNCTIONS AND PART B - KNOWN MISSIONS

PART A - ESSENTIAL FUNCTIONS

The following describes the essential functions required to support DOE/NV, the National Laboratories, DTRA, DoD, other DOE and DoD contractors, and other customers and is intended to provide a general description of the scope of effort. These essential functions support the known missions described in Part B of Section I of this document and may also be required in support of the potential missions described in this document. Although not specifically identified, off-site activities may occasionally require augmentation of the support workforce.

(a) Project Planning

Provide project planning using effective management practices that are sufficiently flexible to allow for the size and complexity of the project. Line item and GPP projects will meet LCAM requirements, including employing graded approach, as appropriate. Prior to the commencement of conceptual design and project execution and to receive approval, the intent of the LCAM requirements must be met.

(b) Project Management

Provide skills and capabilities to develop and execute projects to ensure that all mission objectives are well developed and planned and successfully implemented. This includes tracking of cost, schedule, and technical performance. Report in accordance with prudent project management principles and as required by individual mission needs.

Establish, maintain, and use a project management system that satisfies the requirements specified in the contract and meets the intent of LCAM. Apply the project management system, using a graded approach to all projects, including operating expense funded, general plant, and line-item construction projects.

(c) Engineering and Scientific Services

Assure the availability of scientists, engineers, and technicians with skills to match the support requirements of DOE/NV missions in its various business areas. Develop that assurance through consultation with program leaders at DOE/NV, the National Laboratories, and other partners and customers to define the functions to be executed in achieving mission goals. Provide strategic staffing plans to meet long-range program projections.

Provide design analysis, value engineering, conceptual designs, preliminary designs, material testing and surveying in support of engineering (Title I), final designs and construction drawings (Title II), and as-built drawings pursuant to construction inspections, surveying, and material testing (Title III services) for activities conducted at the Nevada Test Site (NTS), North Las Vegas (NLV), Remote Sensing Laboratory - Nellis (RSL), Remote Sensing Laboratory - Andrews (RSL-AO), and other locations.

(d) Estimating

Prepare cost estimates for all DOE/NV projects employing the standards, requirements, and instructions provided in the DOE/HQ Cost Guide, Volume 6 (latest edition), DOE Order 430.1A LCAM, DOE/HQ Good Practice Guide (GPG-FM-001 Cost Estimating) and the M&O Cost Estimating Manual.

(e) Construction

Construct buildings (including office, laboratory, housing and other personnel support, warehousing, industrial, batch plant, and fabrication facilities); surfaced areas (including roads, equipment yards, and parking); utility components (including substations, power lines, wells, underground storage tanks); and other types of infrastructure projects as required by DOE/NV to meet mission goals and objectives.

(f) Maintenance

Provide facility condition assessments, preventative, predictive, corrective, and emergency maintenance and trouble call support to NTS and other DOE/NV designated facilities. Provide the same services for the 80-acre NLV site, 35-acre RSL site, and the 2-acre RSL- AO site.

(g) Power Systems

Operate and maintain the NTS power system to provide continuity of electric power and to provide safety and reliability normally expected of an operating electric utility under similar circumstances. This includes overhead and underground transmission and distribution power lines, associated substations, transformers, switchgear, standby generators, backup battery systems, and other electrical equipment.

(h) Sewage Systems

Operate and maintain the NTS sewage lagoons in accordance with the State of Nevada general permit. Operate and maintain the YMP sewage lagoons to support YMP's responsibility to comply with the administrative controls under the general permit. Operate and maintain a customer-order portable toilet service at the NTS. Provide a fleet of State of Nevada approved septic haulage trucks for pump-out service, varying from multiple dailies to once per week. Operate and maintain all sewage collection systems (i.e., sewer pipes) at NTS and other DOE/NV owned facilities. Maintain septic tank/leach field sewage disposal systems.

(i) Landfills

Operate and maintain one Class II sanitary landfill, one Class III construction and demolition debris landfill, one Class III special asbestos landfill, and one Class III special hydrocarbon landfill in accordance with State of Nevada permits. Sanitary waste is produced daily, including putrescible, non-putrescible, and construction debris wastes. Provide daily to weekly (as required) refuse collection services to dumpsters throughout the NTS including YMP.

(j) Water Systems

Provide operation and maintenance of the NTS-wide potable water system in accordance with state permits. This system currently consists of potable and sampling wells, storage tanks, water distribution piping, and potable water haulage capability. Ensure that the certified water operator performs for all periodic maintenance and sampling requirements necessary to meet all EPA, DOE, and state requirements of the Safe Drinking Water Act. Support to YMP for all of these services is included.

(k) Fleet and Equipment Operations

Maintain and repair light and heavy mobile equipment and vehicles (including GSA leased), special use vehicles, DTV, and armored vehicles located in North Las Vegas, RSL, and at the NTS. Provide operation of motor pools, equipment yards, and maintenance shops.

(l) Housing

Provide housing accommodations to the NTS workers and visitors as required. Provide full housekeeping services for occupied rooms.

(m) Custodial

Establish a baseline custodial schedule and provide custodial services to meet commercial standards, minimum standards of safety and health, and/or customer requirements. This currently involves custodial services at the NTS for office and special

purpose space, such as computer rooms, medical facilities, special laboratories, print plant, recreational facilities, auditorium, and cafeterias. Provide custodial services for special purpose space according to schedules appropriate to each facility.

Provide custodial services the North Las Vegas, RSL, and RSL - AO facilities.

(n) Food Services

Provide food services on the NTS as required. The current food operation includes the Mercury Cafeteria, Mercury Steak House, CP-1 Snack Bar, and 24-hour vending machines in various locations. Operate the Mercury Social Center on a campaign basis when requested and funded by the various NTS users.

(o) Commuter Services

Arrange for commuter services for workers to and from the NTS. This currently includes the operation of bus routes to Las Vegas, Henderson, Boulder City, and Pahrump, Nevada. Provide charter bus service for tours and other uses as requested. All of these services include "as required" services to YMP.

(p) Communications Services

Operate and maintain telecommunications systems including telephones and cellular telephones, data networks, video multimedia, microwave, satellite, radio, pagers, and other spectrum dependent systems in support of DOE/NV, the National Laboratories, DoD, other DOE and DoD contractors, and other customer facilities located at North Las Vegas, NTS, RSL and YMP.

(q) Waste Management and Remediation

Provide skills and capabilities including engineering, health physics, hydrologic, geologic, and regulatory expertise to manage hazardous and radioactive, low level waste, low level mixed waste, transuranic and mixed transuranic waste and to operate facilities for their storage, treatment and disposal. In addition, provide skills and capabilities to accomplish DOE/NV environmental remediation work. Develop, demonstrate, and maintain a range of remote sensing technologies to assess the nature and extent of surface and near surface contamination.

(r) Environmental Protection

Provide the framework to ensure environmental regulatory compliance in all planning, sampling, drilling, construction, remediation, permitting, and other DOE/NV operations as required. Provide skills and capabilities to prepare environmental permits and NEPA documents for projects, operations and other activities under the purview of DOE/NV. The contractor will be responsible for an environmental monitoring network for various media, such as, air, ground water, surface waters, soil, vegetation, and animals. The media will be analyzed for environmental toxins and/or radiation.

The contractor shall comply with the NTS site-wide EIS and environmental assessments for various operational facilities, such as, the DAF and the Hazardous Spill Center.

(s) Occupational Safety and Fire Protection

Provide the capability to integrate occupational safety (including aviation safety) and fire protection into the planning of work activities. Ensure a safe work environment during all line and support operational activities. Assess, document, and report on the safe

condition of DOE/NV work environments/facilities. Provide fire protection services, which includes maintenance of fire alarms and sprinkler systems, to the NTS and other DOE/NV designated facilities.

(t) Radiation Protection/Safety/Industrial Hygiene

Provide capability to integrate health protection into the planning of work activities. Ensure a healthful work environment during all line and support operational activities. Assess, document, and report on the healthfulness of DOE/NV work environments/facilities and health hazard exposures of personnel. Health hazards include both radiological and non-radiological sources. The contractor will provide onsite and/or off-site capability to analyze environmental, biological, and operational samples for radioactive and non-radioactive constituents and to manage samples analyzed by outside laboratories.

(u) Medical Services

Provide the capability for certified personnel to administer emergency, non-occupational palliative, and occupational medical services for all workers and visitors under the purview of DOE/NV. Maintain adequate documentation of services provided. Provide medical support to YMP.

(v) Institutional Review Board (IRB)

The contractor shall form an IRB (as defined in 10 CFR 745) to provide overview regarding matters originating under its cognizance. To provide services for matters not originating within the contractor's cognizance, provision of an IRB shall occur upon written request from DOE.

(w) Employee Assistance Program (EAP)

Provide personnel and their families with an EAP that provides professional, confidential assistance for any type of personal problem. Include assessment, counseling, referral (if appropriate), and follow-up services as part of this program.

(x) Security Services Coordination

Coordinate with the prime security contractor (WSI), per MOU, to ensure internal security which includes, but is not limited to, physical and technical security planning, classified automated data processing security, security education and awareness, personnel security, classified information security, operations security, and entry/access control. Support a Technical Surveillance Countermeasure (TSCM) Program.

Provide, monitor, and validate unclassified computer security programs.

(y) Human Resources Management

Provide a human resources management system that includes staffing and recruiting, compensation and benefits administration, and other related personnel services.

(z) Training

Provide training and development programs to support DOE missions and functions and to ensure compliance with federal and state laws, DOE and DOE/NV policies, and the M&O's own training policies and procedures.

(aa) Labor Relations

Provide labor relations management support services for all matters relating to bargaining unit employees and collective bargaining agreements, including hiring and terminations, work rules development and administration, dispute resolution, wage and fringe benefits, and labor agreement negotiations and compliance.

Promote and enhance a cooperative labor-management environment.

(bb) Diversity Management

Ensure that an in-house Diversity Program fosters an organizational culture to stimulate employer/employee development and commitment.

(cc) Information Technology Services

Develop, implement, and maintain information technology services/systems for organizational operations and for activities involving general-purpose programming, data collection, data processing, report generation, general in-house developed software, and unclassified computer security. Develop and implement computer resource capacity and maintain capability sufficient to support site-wide information requirements.

(dd) Purchasing

Implement and maintain a DOE/NV-approved purchasing system to provide for broad purchasing support and subcontract administration. Acquire materials, supplies, equipment, facilities, property, and services required in connection with the work under this contract and which are not furnished by the Government.

(ee) Personal and Real Property Management

Implement and maintain DOE/NV-approved real and personal property and records management systems which provide for the acquisition, accountability, segregation, physical protection, identification, financial reporting, physical inventory, required maintenance, motor equipment management, materials management, excess property reporting and utilization, disposal of real and personal property assets, and records archiving and retrieval.

Employ the Facilities Information Management System (FIMS) database and other databases as required to provide a complete and current inventory of DOE/NV assets.

(ff) Packaging and Transportation Management

Provide materials, packaging, and transportation management skills especially with regard to movement of hazardous and radioactive wastes over public highways under Department of Transportation regulations.

(gg) Legal Affairs

Provide a legal staff to support activities including those related to subcontracts, patents, and other intellectual property rights, Cooperative Research and Development Agreements, environmental issues, labor issues, and litigation and claims resolution.

(hh) Financial Management

Develop, implement and maintain a financial management system that meets DOE budgetary requirements, generally accepted accounting principles, cost accounting standards, and statutory requirements.

PART B - KNOWN MISSIONS

The Contractor will provide support to a variety of DOE/NV Missions over the term of the contract. The following provides a description of the known missions currently assigned to DOE/NV that will be supported under this contract.

(A) Stewardship of the NTS

Manage the land and facilities at the NTS as a unique and valuable national resource.

(B) National Security

The Contractor will support the Stockpile Stewardship Program consisting of sub-critical and other weapons physics experiments, emergency management, test readiness, work for other national security organizations, and other experimental programs.

1. Stockpile Stewardship

In close working relationship with DOE/NV and the National Laboratories, and under the direction of the Contracting Officer or designee, the Contractor shall:

- (a) Maintain facilities, equipment, and personnel to support scientific laboratory (LLNL, LANL, SNL) requirements for Stockpile Stewardship experiments and other technical programs, executed on and off the NTS. The off-site resources are to be located in the vicinity of the respective National Laboratory or at other mutually-agreed locations.

The above will include:

- (1) Mining of tunnels, shafts, and chambers, to include mining, construction, cementing, drilling, maintenance and repair, logistical, control, and monitoring support.
- (2) Planning, designing, fabricating, testing, and installing experiment and diagnostic systems for the emplacement and execution of above-ground and underground scientific experiments.
- (3) Planning, designing, fabricating, installing, testing, operating, and maintaining the following;
 - (a) Equipment and related systems and facilities for the measurement, recording, reduction, analysis, and interpretation of data from experiments
 - (b) Timing, firing, control, and related equipment and facilities
 - (c) Photographic and video equipment, systems, and facilities for supporting technical, scientific, and documentary photography and film processing

- (d) Seismic equipment and related systems for diagnostics and safety-related measurements
 - (e) Geophysical equipment, related systems, and facilities for making measurements of geophysical data in support of containment and other related activities at the NTS
- (b) Design, develop, and manufacture special components, equipment, and systems and provide or perform such other services which are related to or incidental to defense, nuclear, as well as statutorily required environmental programs of DOE/NV.
- (c) Conduct a continuing program of research and development to advance the state-of-the-art in technologies important to the Stockpile Stewardship experiment mission.
- (d) Assure nuclear testing capabilities as defined by current readiness scenarios, including the execution of exercises and capability demonstrations as required. Test activities include drilling, site preparation, construction support, down-hole operations, heavy-lift emplacement, operations at LANL and LLNL-designated site locations, operation of aggregate processing and concrete batch processing plants, and various other support functions. Also included are the set-up and maintenance of recording trailers, assembly buildings, towers, and associated structures.
- (e) Provide, through suitable personnel, aircraft, and other resources, the capability to support underground test activities with airborne closed-circuit TV coverage, cloud-tracking, health physics support, and the Test Controller's standby helicopter operations.

2. Emergency Management and Nonproliferation

- (a) This aspect of the Mission focuses on emergency response, counter-terrorism, non-and counter-proliferation of weapons of mass destruction, remote data acquisition, and analysis, and the protection of critical national infrastructure. Technical focus will include:
 - (1) Emergency response to include, but not be limited to, crisis response, consequence management, national-level emergency communications/operations centers, and disaster response.
 - (2) Consequence Monitoring and Surveillance to include, but not limited to, aerial measurements, remotely controlled data acquisition and analysis, and intelligence community support.
 - (3) Counter-Terrorism Technologies to include, but not be limited to, operations to monitor counter-proliferation, force, facility, and critical infrastructure protection, counter-narcotics, and counter-espionage.
- (b) Support will be provided to include, but not be limited to, the following:
 - (1) Provide, manage, and deploy the operational assets of the following regional, national and international programs:
 - (a) Nuclear Emergency Search Team (NEST)

- (b) Federal Radiological Monitoring and Assessment Center (FRMAC)
 - (c) Aerial Measurement System (AMS)
 - (d) Radiological Assistance Program (RAP)
 - (e) Special Technologies Program (STP)
 - (f) Nuclear Nonproliferation/Verification Program (NNVP)
 - (g) Various classified response programs
- (2) Provide, manage, and maintain the capability to respond to and mitigate internal DOE/NV emergencies in accordance with the DOE/NV internal emergency preparedness program.
 - (3) Provide, manage, and maintain the expertise to assist and consult on treaties having to do with the verification and nonproliferation of nuclear weapons and associated technologies.
 - (4) Provide, manage, and maintain a scientifically complex, varied, state-of-the-art technology integration/technology development program for all Emergency Management, Verification and Nonproliferation (EMVNP) programs to ensure that these operational programs and responsibilities do not become technologically obsolete in both an unclassified and classified environment.
 - (5) Provide, manage and maintain the capability to share EMVNP operational and technological capabilities with foreign governments, other government agencies, states, local entities, universities, and the private sector in an unclassified or classified environment.
 - (6) Provide, manage, and maintain a training and exercise program for appropriate EMVNP programs to ensure that operational programs are ready and capable of responding in regard to their operational requirements.
 - (7) Provide, manage, and maintain a classified security environment to support certain EMVNP operational and technology integration efforts. Assure that adequate protection is provided for deployed equipment and information consistent with a DOE/NV approved security plan.
 - (8) Provide, manage, and maintain system to support the DOE/NV customer service survey program for all EMVNP programs.
 - (9) Provide, manage, and maintain state-of-the-art capability in remote sensing, radiation detection, communications, logistical support, and NEST access technologies.

- (10) Provide technical and management support services in such areas as scientific computers, communications coordination, graphics, and such other activities as required.
- (11) Provide management, engineering, and technical support for the maintenance and operation of the Spill Test Facility (STF), including the control facility, data acquisition systems, and tank farm. Provide support to execution of additional experiments involving user-provided equipment or systems as directed by DOE.
- (12) Perform R&D efforts related to detection of: radiation, covert access activities, nuclear facilities operations, and covert execution of nuclear testing; and multi-spectral remote monitoring for environmental contaminants in conjunction with the National Laboratories, as these efforts relate to emergency response and verification programs.

(C) Environmental Management

Supports activities related to the environmental restoration program, waste management program, and science and technology development program and ensures the implementation of site-wide environmental objectives and compliance with all regulatory agreements with other federal, state, or local agencies. The three programs include:

1. Environmental Restoration

Provide the facilities, equipment, and personnel required to support assigned aspects of the DOE/NV's environmental restoration program. Assigned aspects may include, but are not limited to, planning, designs, assessments, characterizations, excavations, closures, decontamination and decommissioning. This may include remediation of sites at NTS or elsewhere in the U.S. or abroad. This may include radioactively contaminated sites and/or sites contaminated with non-radioactive hazardous materials or both. Transuranic contaminants may be included.

- (a) Provide project management and construction management skills which demonstrate sound knowledge of environmental regulatory and remediation requirements.
- (b) Provide environmental engineering skills and capabilities to conduct field surveys, engineering studies, conceptual, preliminary and final design, cost estimating, and value engineering analysis for a wide range of environmental remediation work, facilities decontaminating and decommissioning, and closures of waste disposal facilities.
- (c) Provide skills and capabilities to accomplish remediation work where both hazardous and radioactive waste contamination require assessment, monitoring or remediation of deep groundwater systems and large land areas with surface and near-surface contamination.
- (d) Provide skills and capabilities to establish and maintain an integrated environmental monitoring network for contaminated waste sites which have been closed in place.

- (e) Provide skills and capabilities to investigate, develop and demonstrate a wide range of remote sensing technologies to assess the nature and extend of surface and near-surface chemical and radiological contamination.
- (f) Provide support in the area of terrestrial ecosystems, including site characterization, effects monitoring, reclamation, pre- and post-activity surveys, compliance with the Endangered Species Act, and biological expertise.

2. Waste Management

- (a) Provide site development and facilities utilization planning skills and capabilities in connection with developing radioactive and hazardous waste disposal sites and facilities.
- (b) Provide skills and capabilities including health physics, hydrologic, geologic, engineering, drilling, construction, operations and maintenance expertise to develop and operate low-level radioactive waste disposal facilities including site characterization data acquisition and the preparation of Performance Assessments to determine the isolation and containment attributes of shallow land burial disposal systems.
- (c) Provide skills and capabilities for managing hazardous and radioactive, low level mixed waste, and transuranic and mixed transuranic waste treatment and storage facilities including experience with innovative treatment technologies.
- (d) Provide skills to develop and manage a comprehensive waste minimization program relative to industrial and administrative services wastes.
- (e) Provide safety and health regulatory expertise for the preparation of safety analysis reports for the operation of low-hazard nuclear facilities Occupational Safety and Health Act requirements.
- (f) Manage and dispose of wastes generated in conjunction with DOE/NV missions.
- (g) Operate the Low Level Radioactive Waste Disposal Facility to receive wastes from either local operations or from qualified off-site locations.
- (h) Operate the Waste Examination Facility and its related facilities.

(D) Technology Diversification

Support non-traditional DOE/NV programs and commercial activities that are compatible with the Stockpile Stewardship Program.

(E) Energy Efficiency and Renewable Energy

The Contractor shall support, in close working relationship with the private sector, national laboratories, universities, and other user/experimenters, appropriate areas of the NTS as an infrastructure-supported test bed for energy efficiency, and/or renewable

energy research and development projects. Additionally the Contractor shall provide the talents, capabilities and mechanisms to evaluate, propose and implement other energy efficiency and renewable energy projects and proposals.

In addition to supporting development of energy efficiency technologies, Contractor is expected to utilize existing technologies and best management practices to enhance management and cost effective utilization of existing energy supply systems.

C.6 SECTION II - POTENTIAL MISSION EXPANSION AREAS

In addition to providing support for the known missions, as constituted and described in C.5, Section II, the Contractor is expected to provide and manage technical and other services as necessary in support of any evolution, including expansion, of DOE/NV's services to current and future customers at various locations. As DOE focus changes over time, the outlook for the future of Missions can also change. Expansion can be advantageous to the government, for example, since it can help reduce overhead rates through increase in the cost recovery base and because it can facilitate the retention of critical skills through increased, relevant and related workload. Specific Mission directions can be affected by national and international events, the political climate, the state of the economy, technology advancement, and changes in DOE strategic plans. For the purposes of this contract and the support thereby provided by the Contractor, it is recognized that evolution and expansion are expected, up to and including reconstitution of DOE/NV Missions, to address programmatic needs and to optimize management processes and the allocation of resources.

The types of support required might include, but are not limited to, site development and use planning; pre-conceptual and conceptual design efforts; design, construction, operation, and maintenance; facility readiness activities; standards and calibration activities; emergency preparedness and response; counter-terrorism support; security; facility management and operation; transportation; ES&H; radiation safety; waste management; housing and feeding; community assistance; environmental compliance assistance; and administrative support.

Future expansion areas may include, but are not limited to, such things as the following:

(A) Stewardship of the NTS

The land and facilities at the NTS represent a unique and valuable national resource. The current level of stewardship of this resource that is provided by the Contractor may increase as uses of the NTS continue and evolve. The addition of new programs may result in a more extensive infrastructure that must be maintained. As current infrastructure ages, the programs for corrective and preventative maintenance may become more extensive. Some aspects of the infrastructure may require either significant upgrades or replacement. And, current users of the NTS may require expanded access to assets and support.

As an example of expanded support to current users of the NTS, the level of support to the Yucca Mountain Project (YMP) may change over time. Among other things, the Contractor may be required to maintain physical assets and infrastructure; provide ecological support such as data acquisition, monitoring, analysis, surveys, and studies; support to the scientific testing program; support the development, operation, maintenance, and administration of database and information systems; provide geologic modelling support; provide document maintenance and control; provide photographic support including interpretation services; provide calibration measurement assurance

services; provide support for management assessments, audits, and surveys; provide survey and materials testing laboratory support, and/or provide support of engineering, construction, maintenance, and radiation safety activities.

(B) Stockpile Stewardship

DOE/NV has a long history of supporting America's weapons of defense and security programs, through strong working relationships with the National Weapons Laboratories. NTS activities have evolved from above- and underground testing of nuclear weapons to a focus on conducting integrated experiments to ensure the safety and reliability of the nuclear weapons stockpile. Through participation in national security programs with the National Laboratories, DOE/NV has substantially expanded its capabilities in the areas of diagnostics systems and analyses; target chamber operation; and project and facility design, construction, and operation to meet the needs of a variety of customers. Mission expansion areas could include but are not limited to: hydrodynamic and high energy density physics research; large-scale experimental programs; support of nuclear weapons operations, including assembly, disassembly, and surveillance; design and use of target chambers; and advanced diagnostic instrumentation and capabilities. Stockpile assurance activities could expand to include aging testing, drop testing, classified shape reconfiguration, and test assemblies for damaged weapons.

(C) Emergency Management and Non-Proliferation

The Emergency Management and Non-Proliferation Mission is expected to continue to use unique assets and capabilities to support training, testing, experiments, calibration, and data collection requirements of its diverse customer base in the emergency response, monitoring and surveillance, and counter-terrorism market sectors. The Mission could expand its capabilities to serve a broader spectrum of Work For Others customers, especially related to the areas of weapons of mass destruction protective countermeasures and associated training, and force/facility protection and event mitigation.

The remoteness and expanse of the NTS, along with the technical capabilities of the Contractor, positions DOE/NV to be a highly competitive and attractive candidate for joint agency missions requiring those attributes. Special Operations Forces (SOF) activities and maneuvers are envisioned that may require unique support operations on their behalf. Additionally, the situation of the NTS, in relation to the Nellis Bombing and Gunnery Range, postures it for joint utilization with the USAF and other Department of Defense components on a variety of missions. These might include hard/buried targets functional and structural defeat studies; smart weapons penetration and fuse and function tests; or requirements for an Air Combat Maneuvering on range installation. Usage of the NTS and TTR in conjunction with the Department of Defense for radiological, chemical, biological and conventional counter- and non-proliferation testing may also be an area of Mission expansion. In addition, expansion areas could include demonstration and validation of technologies for resource recovery and recycling of excess conventional munitions, explosive safety and handling, underground engineering and construction, seismic design and analysis, and shock mitigation.

(D) Environmental Management

The Environmental Management Mission encompasses remediation and waste management work at NTS, the Tonopah Test Range, and Nellis Air Force Range as well as other DOE legacy waste sites. DOE/NV could expand its Environmental Management Mission by providing services in environmental characterization; remedial action; monitoring; and waste remediation, processing and storage at the NTS or elsewhere in the U.S. or abroad.

(E) Technology Diversification

The Contractor will continue to support DOE/NV in its efforts to maximize the use of its unique assets. The Contractor will work with DOE/NV to identify and evaluate appropriate projects and programs that may require the use of the integrated DOE/NV infrastructure (facilities, technologies, intellectual assets, and physical infrastructure), thus facilitating DOE/NV's ability to offer efficient, cost effective support to such activities. Activities could include project and facility design, prototyping, construction, and operation to meet the needs of a variety of customers; development and operation of a government or commercial spaceport and its supporting infrastructure; decommissioning and decontamination of nuclear power generating facilities; and large-scale environmental characterization using radiological and multi-spectral imaging.

(F) Energy Efficiency and Renewable Energy

The Contractor will be required to support DOE/NV in its Energy Efficiency and Renewable Energy programs as they evolve. The Contractor may be required to support these programs through technical and project management assistance, project controls, and engineering support. In addition, roles may include system evaluation, design, construction, testing and operation associated with a variety of energy systems.

C.7 DEAR 970.5204-37 STATEMENT OF WORK (M&O CONTRACTS)(FEB 1994)

The Contractor shall when directed by DOE and may, but only when authorized by DOE, enter into subcontracts for the performance of any part of the work under this clause. Such subcontracts are distinguished from the purchase of supplies/services in support of the prime contractor's performance of the requirements set forth in the statement of work (see Clause I.89, "DEAR 970.5204-22 Contractor Purchasing System").

SECTION D

PACKAGING AND MARKING

D.1 PACKAGING (APR 1984)

Preservation, packaging, and packing for shipment or mailing of all work deliverables hereunder shall be in accordance with good commercial practice and adequate to ensure acceptance by common carrier and safe transportation at the most economical rates.

D.2 MARKING (APR 1984)

- (a) Each package, report or other deliverable shall be accompanied by a letter or other document which:
 - (1) Identifies the contract number under which the item is being delivered.
 - (2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).
 - (3) Indicates whether the Contractor considers the delivered item to be partial or full satisfaction of the requirement.
- (b) For any package, report or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in (a) above shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

SECTION E

INSPECTION AND ACCEPTANCE

E.1 INSPECTION

Inspection of all items under this contract shall be accomplished by the DOE Contracting Officer, or any other duly authorized Government representative.

E.2 ACCEPTANCE

Acceptance of all work and effort under this contract (including "Reporting Requirements," if any) shall be accomplished by the Contracting Officer, or any other duly authorized Government representative.

E.3 SUBCONTRACTING

Contract provisions relating to inspection and acceptance, as included in subcontracts and purchase orders, shall provide no less protection for the Government than are provided by the contract articles in this contract.

E.4 FAR 52.246-5 INSPECTION OF SERVICES - COST REIMBURSEMENT (APR 1984)

- (a) Definition. "Services" as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by re-performance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.
- (e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the contract for default.

SECTION F

DELIVERIES OR PERFORMANCE

F.1 PRINCIPAL PLACE OF PERFORMANCE (APR 1984)

The contract work will be performed at the Nevada Test Site and the Tonopah Test Range, their environs and the Las Vegas area; Livermore, California; Los Alamos, New Mexico; Santa Barbara, California; the Washington, D.C. area; and other locations as determined by the Contracting Officer.

F.2 PERIOD OF PERFORMANCE (APR 1984)

The period of performance for the work specified is extended, in accordance with clause B.6, "Option to Extend the Term of the Contract" by four years nine months to a total of nine years nine months beginning January 1, 1996, and continuing through September 30, 2005, unless sooner terminated as provided for in other provisions of the contract.

F.3 FAR 52.242-15, STOP-WORK ORDER ALTERNATE I (AUG 1989)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--
 - (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if--
 - (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

- (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 DOE CONTRACT ADMINISTRATION

- (a) To promote timely and effective administration, correspondence sent to the Contracting Officer shall be addressed as follows:

Contracting Officer
U.S. Department of Energy
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

- (b) All correspondence sent to the Contracting Officer shall contain a subject line commencing with the contract number as illustrated below:

SUBJECT: Contract No. DE-AC08-96NV11718

The Contractor shall use the Contracting Officer as the point of contact on technical and administrative matters except as otherwise needed.

G.2 DOE PATENT COUNSEL (APR 1984)

The mailing address for information copies to the DOE Patent Counsel is:

U.S. Department of Energy
Oakland Operations Office
1333 Broadway
Oakland, CA 94612
ATTN: Office of Patent Counsel

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 MODIFICATION AUTHORITY (APR 1984)

Notwithstanding any of the other clauses of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) accept nonconforming work,
- (b) waive any requirement of this contract, or
- (c) modify any term or condition of this contract.

H.2 KEY PERSONNEL

Pursuant to the Clause I.100, "Key Personnel," the Contractor's key personnel are as follows:

| NAME | TITLE |
|-------------------|--|
| J. T. Mitchell | President and General Manager |
| Dr. H. J. Saxton | Deputy General Manager for Programs |
| Dr. L. K. Trocki | Deputy General Manager for Services |
| T. L. Mack | Executive Director, Office of Strategic Development and Communications |
| R. L. Butters | Chief Financial Officer |
| M. W. Cave | Assistant General Manager - Site Services |
| R. D. Flanagan | Assistant General Manager - Stockpile Stewardship |
| T. W. Habermas | Assistant General Manager - Nevada Operations |
| Vacant | Assistant General Manager - Defense and Civil Projects |
| M. T. Sullivan | Assistant General Manager - Environment, Safety, and Health |
| P. W. Tomiczek | Assistant General Manager - Environmental Management |
| L. A. Van Arsdale | Assistant General Manager - National Security Response |

Clause I.100, "Key Personnel" contains a requirement for notification to the Contracting Officer reasonably in advance of diverting of, or substitution for, any of these individuals. That period of time shall not be less than 30 days.

H.3 WITHDRAWAL OF WORK

- (a) The Contracting Officer reserves the right to have any of the work contemplated by Section C, Statement of Work, of this Contract performed by either another Contractor or to have the work performed by Government employees.
- (b) Work may be withdrawn: (1) in order for the Government to conduct pilot programs; (2) if the Contractors estimated cost of the work is considered unreasonable; (3) for less than satisfactory performance by the Contractor; or, (4) for any other reason deemed by the Contracting Officer to be in the best interests of the Government.

- (c) If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required pursuant to Clause H.24, "Technical Direction".

H.4 SUBCONTRACTS CONSENT AND FLOW DOWN REQUIREMENTS

- (a) Prior to the placement of subcontracts and in accordance with Clause I.89, "Contractor Purchasing System," the Contractor shall ensure that:
 - (1) They contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts. Particular attention should be directed to the potential flow down applicability of the Clauses I.11, "Utilization of Small Business Concerns" and I.12, "Small Business Subcontracting Plan" contained in PART II Section I of the contract;
 - (2) Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR 15.406-2) and subcontractor Representations and Certifications (see the document referenced in Contract Clause H.26 "Representation, Certification and Other Statements of the Offeror" hereof) are completed; and
 - (3) Any required prior notice and description of the subcontract is given to the Contracting Officer and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- (b) The following subcontractors have been cleared by the Contracting Officer for OCI:

**Lockheed Martin Nevada Technologies, Inc.
Johnson Controls Nevada, Inc.**

H.5 CONFIDENTIALITY OF INFORMATION (APR 1984)

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
 - (1) Information which, at the time of receipt by the Contractor, is in the public domain;
 - (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;

- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.
- (d) The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.
- (e) This clause shall flow down to all subcontracts.

H.6 DEAR 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1984)

Except for technical data as contained on all pages of the Contractor's proposal dated June 28, 1995 and October 2, 1995, which are asserted by the Contractor as being proprietary data, it is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, disclose, and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

H.7 ENVIRONMENTAL, SAFETY AND HEALTH COMPLIANCE DATA

Data required to assure environmental, safety and health compliance by the Contractor in its activities on behalf of the Department of Energy shall not be considered proprietary data in the context of Clause I. 120 DEAR 970.5204-83, "Rights In Technical Data—Technology Transfer." DOE retains unlimited rights in all records, data, and audits involving compliance with Federal and State environmental, safety and health statutes.

H.8 SEPARATE LEGAL ENTITY

The offeror must be a separate legal entity which will be totally responsible for all contract activities, and which will present "one face" to the Government. If the offeror is a new legal entity formed for the purpose of proposing on this contract, it must provide a suitable guarantee to insure its performance of the contract requirements.

H.9 TRANSPORTATION

- (a) The Contractor shall use carriers that offer acceptable service at reduced rates if available.
- (b) Transportation in Commerce

The Contractor shall comply with the applicable Hazardous Materials Regulations (HMR) when transporting hazardous materials in commerce, even when the transportation is in a Government vehicle. Work Smart Standards apply when the transportation is not in commerce.
- (c) The name and address of the DOE Traffic Manager is as follows:
Kathleen F. Grassmeier
U.S. Department of Energy
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518
(702) 295-7444

H.10 SECURITY

In addition to the provisions in Clause I.65, "DEAR 952.204-2 Security," the contractor agrees to comply with Security regulations of other government agencies when applicable.

H.11 CONTRACTOR USE OF GOVERNMENT VEHICLES--WORK TO DOMICILE

Government owned or leased vehicles shall be used for official purposes only. Any cost or expense associated with nonofficial use of government-owned or leased vehicles is an unallowable cost and is therefore not reimbursable under the contract. Official purposes do not ordinarily include transportation of a contractor's employee between domicile and place of employment. However, contractor employees driving government-owned or leased vehicles to their personal residences will be considered to do so for official purposes if all the following conditions exist:

- (1) Unusual and special circumstances occur when contractor employees are required to work unusual hours and regular transportation is not available.
- (2) The Contractor has defined in writing the special and unusual circumstances in which the driving of government-owned or leased vehicles by contractor employees to their personal residences will be considered used for official purposes and the DOE Contracting Officer has approved them.
- (3) The contractor has designated, in writing, specific individuals who are authorized to approve the driving of government vehicles by contractor employees to their personal residences.
- (4) The contractor maintains records necessary to clearly establish the extent that home-to-work transportation was for official purposes. The contractor shall determine, subject to approval of the Contracting Officer, the organizational level at which the records should be maintained and kept.

The records should be easily accessible for audit and should contain, as a minimum, the following information:

- a. Name and title of employee using the vehicle, as well as the names and titles of any passengers sharing the vehicles;
 - b. Name, Employee Identification Number, and title of person authorizing use;
 - c. Vehicle license number;
 - d. Date and time of day of vehicle use;
 - e. Storage location of vehicle;
 - f. Duration of use; and
 - g. Special and unusual circumstances requiring home-to-work transportation and negative impact, if such approval is not granted. Approval should not be granted if bus services are reasonably available. The approving official should require the sharing of rides to the extent reasonably feasible when government vehicles are authorized.
- (5) The contractor establishes and enforces penalties for employees who use or authorize the use of government vehicles for other than official purposes.

H.12 EXECUTION OF PERMITS AND APPLICATIONS

In recognition of the Contractor's responsibility to operate in compliance with all applicable environmental requirements, the Contractor is responsible for signing environmental permits and applications as "operator or co-operator." To clarify the resulting obligations under the Contract, the parties agree to the following:

- (1) DOE agrees that the Contractor shall not incur any liability above and beyond that contemplated by the Contract by reason of the Contractor's execution of environmental permits.
- (2) DOE agrees that if bonds, insurance or administrative fees are required as a condition for such permits, such costs shall be allowable. In the event that such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with an acceptable form of financial responsibility. In no event shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

H.13 TRANSFER OF ENVIRONMENTAL PERMITS

In the event of termination or expiration of this contract, DOE will require the successor contractor to accept transfer of all environmental permits executed by the Contractor, or DOE will accept responsibility for such permits, and the Contractor shall be relieved of all future liability and responsibility resulting from the acts or omissions of the successor contractor or DOE.

H.14 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATION OR ALLEGED VIOLATIONS, FINES AND PENALTIES

- (a) The Contractor shall accept, in its own name, notices of violations or alleged violations (NOV's/NOAV's) and fines and penalties issued by Federal or State regulators resulting from the contractor's performance or work under this

contract. The allowability of the costs associated with fines and penalties shall be governed by the provisions of Clause I.82, "DEAR 970.5204-13 Allowable Costs and Fixed Fee (Management And Operating Contracts)."

- (b) The Contractor shall be free to conduct negotiations with regulators regarding NOV's/NOAV's, fines and penalties; however, the Contractor shall not make any commitments or offers to regulators which would bind the Government in any form or fashion, including monetary obligations, without receiving written concurrence from the Contracting Officer or his authorized representative prior to making any such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

H.15 ASSIGNMENT OF EXISTING SUBCONTRACTS/AGREEMENTS

- (a) Existing contractual agreements entered into by the incumbent contractor will be assigned to the Contractor upon the effective date of assumption of full responsibility under this contract. The contractual agreements shall include all (1) subcontracts and purchase orders; (2) agreements with domestic and foreign research organizations; (3) agreements with universities and colleges; and (4) other similar agreements, including labor agreements, Memorandums of Agreement/Understandings, etc.
- (b) The terms and conditions of these contractual agreements, as they exist when assigned, shall remain in full force and effect unless modified by the Contractor and the vendor/subcontractor/other party.

H.16 ELECTRONIC COMMERCE

In compliance with the Government's initiative of "Streamlining Procurement Through Electronic Commerce," and presenting a "single face" to industry, the contractor shall strive to implement, within available funding, an Electronic Commerce System that will generate a paperless, automated, integrated procurement/payment system. This system shall, to the maximum practicable extent, subject to DOE approval, allow for: electronic request for quotations, quotations, and purchase orders, electronic invoices and remittance advices; full integration between the procurement, receiving, inventory control and accounting systems; and, accounting system programs that compare invoices, receipts and orders and automatically issue electronic funds transfer payments.

H.17 CORPORATE HOME OFFICE EXPENSES

No corporate home office expense of the Contractor shall be allowable without the prior approval of the Contracting Officer.

H.18 MEMORANDUM PURCHASE AGREEMENT

Through a memorandum purchase order, the contractor can perform work for another integrated contractor. Two funding mechanisms can be utilized under the memorandum purchase agreement. An annual scope of work of \$100,000 or less can be funded via cash orders which are contractor purchase orders describing the requested scope of work, the deliverables, completion date, and the funding source; integrated cash orders are written directly to an integrated contractor. The second funding mechanism is a DOE Interoffice Work Order covering annual scopes of work exceeding \$100,000. A DOE Interoffice Work Order is a

document containing similar information to the Cash Order and is written or approved by two DOE Offices. Funding for these efforts is provided through the DOE Office to the performing integrated DOE contractor via their Approved Funding Program.

H.19 STABILIZATION OF SITE EMPLOYMENT

- (a) The Contractor agrees to credit incumbent employees with their current length of service toward fringe benefits such as vacation, severance pay, etc.
- (b) The Contractor agrees to honor accrued benefits as of the effective date of the contract for incumbent employees.
- (c) Pension benefit accruals under the previous contracts with EG&G Energy Measurements, Inc., Reynolds Electrical and Engineering Co., Inc., and Raytheon Services Nevada must be honored by the Contractor.
- (d) DOE may require the Contractor to establish a Pension Plan for its employees separate from the corporate plan if DOE determines that it is in the Government's interest to do so. DOE will consult with the Contractor before establishing a requirement for a separate plan.

H.20 CONTROL OF NUCLEAR MATERIALS

- (a) As used in this clause, the term "Nuclear Materials" is a collective term which includes source material, Special Nuclear Material, and those other materials to which, by direction of DOE, the provisions of DOE's Orders or Directives regarding the control of Nuclear Materials, which have been or may be furnished to the Contractor by DOE, apply. The Contractor shall, in a manner satisfactory to the Contracting Officer, establish accounting and measurement procedures, maintain current records and institute appropriate control measures for Nuclear Materials in its possession commensurate with the national security and DOE policy. The contractor shall make such reports and permit such inspections as DOE may require with reference to nuclear materials. The contractor shall take all reasonable steps and precautions to protect such materials against theft and misappropriations and to minimize all losses of such materials.
- (b) Transfers of Nuclear Materials shall only be made with the prior written approval of the Contracting Officer, or authorized designee. Nuclear Materials in the Contractor's possession, custody, or control shall be used only for furtherance of the work under this contract. The Contractor shall be responsible for the control of such Nuclear Materials in accordance with applicable DOE Orders and Directives regarding the control of Nuclear Materials, which have been or may be issued to the Contractor by DOE, and shall make a part of each purchase order, subcontract, and other commitment involving the use of Nuclear Materials for which the Contractor has accountability, which it enters into under this contract, appropriate terms and conditions for the use of Nuclear Materials and the responsibilities of the subcontractor or vendor regarding control of Nuclear Materials. In the case of fixed-price purchase orders, subcontracts, or other commitments involving the use of Nuclear Materials for which the Contractor has accountability, the terms and conditions with respect to Nuclear Materials shall also include the financial responsibilities, if any, regarding such items as losses, scrap recovery, product recovery, and disposal.

H.21 PROMISES AND COMMITMENTS

Detailed in Part III Section J, Appendix G, "Promises and Commitments," and incorporated into this contract is a list of promises made by the Contractor in its Best and Final Offer, dated October 02, 1995, which have not been identified elsewhere in this contract as a contract requirement. It is recognized that, as appropriate, these promises and commitments may be incorporated into a separate incentive fee arrangement or in the Award Fee Performance Evaluation Plan. However, notwithstanding whether or not the promises/commitments are ever the subject of separate incentivization, the Contractor is expected to, in good faith, strive to meet the stated objectives. The extent to which the Contractor is able to achieve success and the extent to which the promises/commitments have been kept shall be considered in any determination to exercise the option provided for in Section B of this contract.

Promises and commitments in Appendix G represent revisions to the Best and Final Offer dated October 2, 1995, to reflect changes in work approach and/or completion of those promises. The intent of the promises and commitments has not changed.

H.22 PRIVACY ACT SYSTEMS OF RECORDS

The Contractor shall design, develop, or operate the following systems of records on individuals to accomplish an agency function pursuant to the Clause I.40, "Privacy Act."

| DOE System No. | Title |
|----------------|---|
| DOE-33 | Personnel Medical Records |
| DOE-35 | Personnel Radiation Exposure Records |
| DOE-80 | Quality Assurance Training and Qualification Records (as it relates to the Yucca Mountain Project) |

The above list shall be revised from time to time by mutual agreement between the Contractor and the Contracting Officer as may be necessary to keep it current. Such changes need not be formally incorporated before the annual contract update modification, but shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in Paragraph (a)(1) of Clause I.40, "Privacy Act."

H.23 PROJECT CONTROL SYSTEMS AND REPORTING REQUIREMENTS

- (a) In the performance of this contract, the Contractor shall establish, maintain, and use a project control system that is approved by the Contracting Officer.
- (b) The Contractor shall provide the Contracting Officer with a detailed written description of the proposed project control system for review within 45 days after award of the contract.
- (c) Upon system approval by the Contracting Officer, the Contractor shall fully implement the project control system. The Contractor shall not make any significant changes to the approved system without the prior written approval of the Contracting Officer.
- (d) The Contractor shall provide the Contracting Officer or his authorized representative with access to all pertinent records, data, and plans for the purposes of initial approval and approval of proposed changes, and of reviewing the operation of the project control system.

- (e) The Contractor shall identify by written notification to the Contracting Officer, those subcontracts for which they propose to set applicable project control system requirements. The Contractor shall incorporate, in the identified subcontracts, provisions for review and surveillance of the subcontractor's systems. The review will be conducted by the prime Contractor, unless the Government, Contractor, or Subcontractor requests the Government review.
- (f) Except as provided for elsewhere in the Contract, the Contractor shall implement a Work Breakdown Structure (WBS) that is acceptable to the Contracting Officer. The WBS shall provide the basis for all reports required under this subsection. The WBS shall be derived from the Statement of Work and shall otherwise conform to any implementation guidance, which may be provided by the Contracting Officer.
- (g) The Contractor shall submit periodic cost, schedule, and technical performance plans and reports in such form and substance as approved by the Contracting Officer. These periodic plans and reports shall be submitted at the interval, and to the addresses and in the quantities as specified by the Contracting Officer. Where specific forms are required for individual plans and reports, the Contracting Officer shall provide such forms to the Contractor. Plans and reports shall be prepared by the Contractor in such a manner as to provide for:
 - (1) Consistency with the Contract Statement of Work, the Work Breakdown Structure and the existing accounting structure, as appropriate
 - (2) Correlation of data among the various plans and reports.
- (h) The reporting system established and maintained by the Contractor pursuant to this subsection shall recognize changes in work effort directed by the Contracting Officer, as provided for in Clause H.25, "Annual Contract Plan." During performance of this Contract, the Contractor shall update and/or change, as appropriate, the WBS (including any diagrams, supporting work descriptions, and WBS dictionary) to reflect changes in the Statement of Work.
- (i) The Contractor agrees to provide the Contracting Officer, or designated authorized representatives, access to information and documents comprising the Contractor's reporting system described above.

H.24 TECHNICAL DIRECTION

The Contracting Officer may formally designate individual(s) (identified herein as official Designees) to act as authorized representative for certain functions as they relate to the contract. Copies of any such written delegations relating to this contract will be provided to the Contractor. The actions of a Designee can not change the contract Statement of Work, contract cost, or Terms and Conditions of the contract.

The work performed by the Contractor in compliance with the terms of this contract shall be subject to "technical direction" from official Designees. The term "technical direction" is defined to include, without limitation:

- (1) Directions to the Contractor which redirect the contract effort, shift work emphasis, require pursuit of certain lines of inquiry, fill in details or otherwise serve to clarify the SOW.

- (2) Provision of written information to the Contractor that assists in the official interpretation of drawings, specifications or technical portions of the work description, where divergent interpretations either exist or could reasonably be expected to occur.
- (3) Where required by the contract, review and approve technical reports, drawings, specifications and technical information to be delivered by the Contractor to the Government under the contract.

The Contractor shall only accept technical direction if provided in writing and if within the Statement of Work of the contract. Technical direction shall not:

- (1) Constitute an assignment of additional work outside the Statement of Work;
- (2) In any manner cause an increase or decrease in the total estimated Contract cost or the time required for Contract performance;
- (3) Authorize the Contractor to exceed the total funds obligated on the contract;
- (4) Entitle the Contractor to any increase in the total amount of base fee, award fee, or incentive fee set forth in the contract, except as may be applicable pursuant to Clause I.80, "Changes";
- (5) Change any of the expressed terms or conditions of the contract; or
- (6) Interfere with the Contractor's rights to perform the terms and conditions of the contract.

The Contractor shall proceed promptly with the performance required by duly issued written technical direction. If, in the opinion of the Contractor, any technical direction violates the prohibitions set forth in this clause, the Contractor shall not proceed but shall promptly notify the Contracting Officer of the direction and reason(s) the direction violates the provisions of this subsection. The Contractor may give oral notification, but shall confirm this notification in writing within five (5) workdays from receipt of written direction. The Contracting Officer shall render a decision on whether or not the technical direction is within the Statement of Work of the contract and whether or not a change order will be issued pursuant to Clause I.80, "Changes." This decision shall be issued or confirmed in writing, and the Contractor shall promptly comply with the Contracting Officer's direction.

A failure of the Contractor and DOE to agree that the technical direction is within the Statement of Work of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of Clause I.48, "Disputes-Alternate I."

Complementary to formal technical direction, it is expected that there will be full and open communication between the functional counterparts of the DOE, the National Laboratories, and the Contractor's organization. Such communication will facilitate a clear and consistent understanding of the technical and performance requirements of the work and will result in accomplishment of the work in a highly professional, coordinated, efficient, and cost-effective manner.

H.25 ANNUAL CONTRACT PLAN

Prior to the start of each fiscal year, the Contracting Officer shall provide the Contractor a scope of work, any major milestones, and an annual budget, hereinafter referred to as the Annual Contract Plan (ACP), that conforms to the Statement of Work specified in the contract. The

Contractor will use the ACP to develop detailed plans, schedules, and cost estimates as outlined in Clause H.23, "Project Control Systems and Reporting Requirements." The ACP shall constitute an integral part of the contract. The Contracting Officer may at any time issue changes to the ACP. The performance of work and the incurrence of cost in execution of the scope of work that is defined in the ACP shall be initiated only in accordance with the provisions of this subsection and the Clauses H.23, "Project Control Systems and Reporting Requirements" and I.83, "Obligation of Funds."

This section is of lesser order of precedence than Clauses I.82, "Allowable Costs and Fixed Fee," I.83, "Obligation of Funds," and I.84, "Payments and Advances." The Contractor is not authorized to incur costs on any ACP which is not in compliance with the other terms and conditions of this contract.

H.26 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR

The "Representations, Certifications, and Other Statements of the Offeror," dated June 17, 1995, for this contract are hereby incorporated by reference.

H.27 TRANSFER-RELOCATION ALLOWANCE

- (a) An allowance for transfers and relocations accomplished pursuant to Section 3161 of the National Defense Authorization Act of Fiscal Year 1993 may be reimbursed with an outbound and an inbound allowance not to exceed the employee's receipted expenses up to 4-1/3 weeks salary, except that a flat amount not to exceed one thousand dollars (\$1,000.00) may be allowed in lieu of receipted expenses.
- (b) When actual or potential employment termination is the result of a work force restructuring plan prepared by the Department pursuant to section 3161 of the National Defense Authorization Act for fiscal year 1993 (Pub. L. 102-484), the Contractor shall comply with the plan which may prescribe funding amounts for relocating an employee to another company at another DOE site when the employee does not qualify for relocation assistance under the hiring Contractor's policies.

H.28 WORK ALLOCATION

- (a) It is DOE policy to foster labor peace and encourage work allocation in such a manner that the work will be performed in an expeditious and resource-economical fashion by trained employees. Occasionally, work, which does not clearly fall within the jurisdiction of any single labor or collective bargaining agreement to which the Contractor is a party, must be performed (such work is hereinafter referred to as "Unassigned Work").
- (b) The Contractor shall establish a process, consistent with applicable DOE guidance, that is reasonably calculated to allocate Unassigned Work in a manner agreeable to the affected unions and consistent with the requirements of applicable law and the terms of this contract.

H.29 LABOR RELATIONS

- (a) The Contractor will respect the rights of employees (i) to organize, form, join or assist labor organizations, bargain collectively through representatives of the employees own choosing, and engage in other protected concerted activities for the purpose of collective bargaining, and (ii) to refrain from such activities.

- (b) To the extent required by law, the Contractor shall give notice to any lawfully designated representative of its employees for purposes of collective bargaining agreement and, upon proper request, bargain to good faith impasses or agreement, or otherwise satisfy applicable bargaining obligations.
- (c) The Contractor shall promptly advise the Contracting Officer of, and provide all appropriate documentation regarding, any labor relations developments that involve or appear likely to involve:
 - (1) Possible strike situations affecting the facility;
 - (2) Recourse to procedures under the Labor-Management Act of 1947, as amended, or any other Federal or State Labor law; or
 - (3) Any grievance which may reasonably be assumed will be arbitrated under a Collective Bargaining Agreement.
- (d) Cost of wages and fringe benefits, to employees represented by collective bargaining units, not in excess of those provided in the current collective bargaining agreements and revisions thereto shall be allowable. All other costs, such as expenses relating to the grievance processing and settlements, arbitration and arbitration awards and other costs and expenses incurred pursuant to the provision of the current collective bargaining agreements and revisions thereto are allowable costs hereunder.

H.30 INCENTIVE FEE

This clause shall be completed as appropriate at such time as the contract is awarded or modified to include cost plus incentive fee provisions.

(a) General

The Government shall pay the Contractor for performing this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] a fee determined as provided in this contract.

(b) Target cost and target fee

The target cost and target fee specified in the Schedule are subject to adjustment if the [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] is modified in accordance with paragraph (d) below.

- (1) "Target cost," as used in this contract, means the estimated cost of this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] as initially negotiated, adjusted in accordance with paragraph (d) below.
- (2) "Target fee," as used in this contract, means the fee initially negotiated on the assumption that this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) below.

(c) Withholding of payment

Normally, the Government shall pay the target fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee.

(d) Equitable adjustments

When the work under this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] is increased or decreased by a modification to this contract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this contract.

(e) Fee payable

- (1) The fee payable under this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] shall be the target fee increased by _____ cents for every dollar that the total allowable cost is less than the target cost or decreased by _____ cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than _____ percent or less than _____ percent of the target cost.
- (2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) above, and within the minimum and maximum fee limitations in subparagraph (1) above, when the total allowable cost is increased or decreased as a consequence of (i) the total allowable cost being increased or decreased as a consequence of determinations of cost allowability made pursuant to the clause herein entitled, "Allowable Costs and Fee," DEAR 970.5204-13 or DEAR 970.5204-14 of this contract, and/or (ii) when an adjustment in fee is determined pursuant to the Clause "Conditional Payment of Fee or Incentives (Exclusive of Base Fee)."
- (3) If this [INSERT "CONTRACT," CONTRACT LINE ITEM NUMBER (CLIN) OR APPROPRIATE WORK PACKAGE] is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this contract.
- (4) For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of (i) any of the causes covered by the Excusable Delays clause to the extent that they are beyond the control and without the fault or negligence of the Contractor or any Subcontractor; (ii) the taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the Contractor's being required to pay or bear the burden of any tax or duty

or rate increase in a tax or duty; (iii) any direct cost attributed to the Contractor's involvement in litigation as required by the Contracting Officer pursuant to a clause of this contract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement clause; (iv) the purchase and maintenance of additional insurance not in the target cost and required by the Contracting Officer, or claims for reimbursement for liabilities to third persons pursuant to the Insurance--Litigation and Claims clause; (v) any claim, loss, or damage resulting from a risk for which the Contractor has been relieved of liability by the Government Property clause; or (vi) any claim, loss, or damage resulting from a risk defined in the contract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the Contractor.

- (5) All other allowable costs are included in "total allowable cost" for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this contract.
- (6) Any determination made pursuant to the Clause entitled "Conditional Payment of Fee or Incentives (Exclusive of Base Fee)," to any fee, which may have been earned hereunder, shall not be subject to the "Disputes" Clause.

(f) Contract modification

The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification to this contract signed by the Contractor and Contracting Officer.

H.31 INCENTIVE PRICE REVISION--FIRM TARGET

This clause shall be completed as appropriate at such time as the contract is awarded or modified to include fixed-price incentive (firm target) provisions.

(a) General

The supplies or services identified in the Schedule as Items [INSERT SCHEDULE LINE ITEM NUMBERS] are subject to revision of the target prices in accordance with this clause; provided, that in no event shall the total final prices of these [INSERT SCHEDULE LINE ITEM NUMBERS] items exceed the ceiling price of [WRITE OUT FULL DOLLAR AMOUNT IN WORDS] dollars (\$_____). Any supplies or services that are to be (1) ordered separately under, or otherwise added to, this fixed-price incentive portion of the contract and (2) subject to price revision in accordance with the terms of this clause shall be identified as such in a modification to this contract.

(b) Definition

"Costs," as used in this clause, means allowable costs in accordance with the "Allowable Costs and Fee" Clause of this contract, DEAR 970.5204-13 or DEAR 970.5204-14.

(c) Data submission

- (1) Within [Contracting Officer insert number of days] days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services specified by item number in paragraph (a) above, the Contractor shall submit in a form on which the parties agree--
 - a. A detailed statement of all costs incurred up to the end of that month in performing all work under the items;
 - b. An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;
 - c. A list of all residual inventory and an estimate of its value; and
 - d. Any other relevant data that the Contracting Officer may reasonably require.
- (2) If the Contractor fails to submit the data required by subparagraph (1) above within the time specified and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest Clause.

(d) Price and profit revision

Upon the Contracting Officer's receipt of the data required by paragraph (c) above, the Contracting Officer and the Contractor shall promptly establish the total final price of the items specified in (a) above by applying to target profit an adjustment, as follows:

- (1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for supplies delivered (or services performed) and accepted by the Government and which are subject to price revision under this clause.
- (2) The total final profit shall be established by applying to the total target profit an adjustment, as follows. The total final price shall be established, within the limitations of the ceiling price, by applying the aforementioned final profit to the final negotiated cost:
 - a. If the total final negotiated cost is equal to the total target cost, the adjustment to price is the target profit.
 - b. If the total final negotiated cost is greater than the total target cost, the adjustment to the total target profit is a deduction of [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost exceeds the total target cost. The adjustment to the final negotiated cost is the aforementioned adjusted profit.

- c. If the final negotiated cost is less than the total target cost, the adjustment to the target profit is an addition of [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost is less than the total target cost. The adjustment to the final negotiated cost is the aforementioned adjusted profit.
- d. In no event shall the Government pay, for line items identified in paragraph (a), an amount exceeding the ceiling prices established for those line items. The Contractor shall be responsible for 100% of all costs, for those line items identified in paragraph (a) herein, which cause the sum of all costs incurred plus the total final profit to exceed the ceiling price(s).

(e) Contract modification

The total final negotiated cost, profit and price for the items specified in paragraph (a) above shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer. This amount shall not be subject to revision, notwithstanding any changes in the cost of performing the contract, except to the extent that--

- (1) The parties may agree in writing, before the determination of total final profit, to exclude specific elements of cost from the profit calculation and to a procedure for subsequent disposition of those elements; and
- (2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract. Any determination made pursuant to the Clause entitled "Conditional Payment of Fee or Incentives (Exclusive of Base Fee)", to any fee, which may have been earned hereunder, shall not be subject to the "Disputes" Clause.

(f) Adjusting billing of profit

- (1) If at any time it appears from information provided by the Contractor under subparagraph (g)(2) below that the then-current estimated costs will be substantially greater than the target costs, the parties shall negotiate a reduction in the billing of profit. Similarly, the parties may negotiate an increase in billing amounts upon the Contractor's submission of factual data showing that final cost under this contract will be substantially lower than the target cost.
- (2) Any billing amount adjustment shall be reflected in a contract modification and shall not affect the determination of the total final profit under paragraph (d) above. After the contract modification establishing the total final profit is executed, the total amount paid or to be paid shall be adjusted to reflect the total final profit, and any resulting additional payments, refunds, or credits shall be made promptly.

(g) Quarterly limitation on payments statement

This paragraph (g) shall apply until final profit revision under this contract has been completed.

- (1) Within 45 days after the end of each quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing--
 - a. The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;
 - b. The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;
 - c. The portion of the total target profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established--increased or decreased in accordance with subparagraph (d)(2) above, when the amount stated under subdivision b., immediately above, differs from the aggregate target costs of the supplies or services; and
 - d. The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government.
- (2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (1)d. above exceeds the sum due the Contractor, as computed in accordance with subdivisions (1)a., b., and c. above, the Contractor shall immediately refund or credit to the Government the amount of this excess.
- (3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest Clause.

(h) Subcontracts

No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis. The Contractor shall--

- (1) Insert in each price re-determination or incentive price revision subcontract the substance of paragraph (g) of FAR Clause 52.216-16, and of paragraph (h) therein, modified to omit mention of the

Government and to reflect the position of the Contractor as purchaser and of the Subcontractor as vendor, and to omit that part of subparagraph (g)(2) therein relating to tax credits; and

- (2) Include in each cost-reimbursement subcontract a requirement that each lower-tier price re-determination or incentive price revision subcontract contain the substance of paragraph (g) of FAR Clause 52.216-16 and of paragraph (h) therein, modified as required by subparagraph (1) therein.

(i) Disagreements

If the Contractor and the Contracting Officer fail to agree upon the total final price within 60 days (or within such other period as the Contracting Officer may specify) after the date on which the data required by paragraph (c) of FAR Clause 52.216-16 are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes Clause.

(j) Termination

If this contract is terminated before the total final profit and price is established, profits and prices of supplies or services subject to price revision shall be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(k) Equitable adjustment under other clauses

If an equitable adjustment in the contract profit and/or price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost, if applicable, and may be made in the maximum dollar limit on the total final price, the total target profit, or both.

(l) Exclusion from target price and total final price

If any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.

(m) Taxes

As used in the Federal, State, and Local Taxes Clause or in any other clause that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price or, if it has been established, the total final price. When any of these clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Contractor's profit or loss on this contract.

H.32 PROVISIONAL PAYMENT OF INCENTIVES

- (a) Definition: For purposes of this clause, the word "fee" shall mean award fee, incentive fee, profit, and/or cost savings share.

- (b) If interim payments of fee, are paid before the final determination of fee, those payments shall be provisional pending that final determination. Such provisional payments may be made at the discretion of the contracting officer.
- (c) Any fee paid on such a provisional basis shall have 15 percent of the fee payment withheld by the Government until the final fee is determined.
- (d) The final determination of fee will be made by the FDO, in accordance with the fee clauses of this contract. In the event that overpayment results from the payment of fee on a provisional basis, the contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the "Interest" Clause of this contract.

H.33 CONTRACT TYPE, ESTIMATED COST, INCENTIVE FEE, AND AWARD FEE

This contract contains multiple pricing arrangements, including: (list the various pricing arrangements) in accordance with Clauses H.30, "Incentive Fee" and I.105, "Total Fee Available: Base Fee Amount and Performance Award Fee Amount (DEAR 970.5204-54), (and any other clauses as appropriate). Paragraph (a) below, sets forth the cost, basic fee and award fee information for the period. Paragraph (b) provides the various pricing and fee arrangements for contract year YYYY for each contract line item. A complete description of the incentive provisions is contained in the various incentive clauses of the contract.

- (a) The amount obligated, estimated cost, basic fee, and maximum available award fee, if any, for the previous contract periods, is set forth below:

| <u>Contract Period</u> | <u>Amount Obligated</u> | <u>Estimated Cost</u> | <u>Basic Fee</u> | <u>Max. Avail. Award Fee</u> |
|------------------------|-------------------------|-----------------------|------------------|------------------------------|
| _____ | _____ | _____ | _____ | |

- (b) The contract line items and fee arrangements for the period of _____ through _____, are set forth below:

- (1) Firm-Fixed Price - The following Contract Line Items are hereby incorporated on a firm-fixed price basis:

| <u>Contract Line Item</u> | <u>Fixed-Price</u> |
|---------------------------|--------------------|
| XXXX | XXXX |

- (2) Fixed Price Incentive - The following Contract Line Items are hereby incorporated on a fixed price incentive basis:

| <u>Line Item</u> | <u>Tar. Cost</u> | <u>Tar. Fee</u> | <u>Ceiling</u> | <u>Share</u> |
|------------------|------------------|-----------------|----------------|--------------|
|------------------|------------------|-----------------|----------------|--------------|

- (3) Cost Plus Incentive Fee - The following Line Items are hereby incorporated on a cost plus incentive fee basis:

| <u>Line Item</u> | <u>Tar. Cost</u> | <u>Tar. Fee</u> | <u>Min. Fee</u> | <u>Max. Fee</u> | <u>Share</u> |
|------------------|------------------|-----------------|-----------------|-----------------|--------------|
|------------------|------------------|-----------------|-----------------|-----------------|--------------|

- (4) Cost Plus Award Fee The following Line Items are hereby incorporated on a cost plus award fee basis:

| <u>Line Item</u> | <u>Period/ Year</u> | <u>Estimated Cost</u> | <u>Base Fee</u> | <u>At-Risk Pool</u> | <u>Award Fee</u> |
|------------------|---------------------|-----------------------|-----------------|---------------------|------------------|
|------------------|---------------------|-----------------------|-----------------|---------------------|------------------|

H.34 SEGREGATION OF COSTS

- (a) Whenever the contract contains both fixed price and cost type efforts, the Contractor shall maintain separate accounts for each unique contract type by CLIN, task order or other suitable accounting procedure, of all incurred segregable costs of work, allocable to the work effort directly related to each contract arrangement.
- (b) Whenever the contract contains a provision for an incentive for a portion of the work effort under the contract, the Contractor shall maintain separate accounts by CLIN, task order or other suitable accounting procedure, of all incurred segregable costs of work, allocable to the work effort directly related to the incentive.
- (c) If the Contractor has initiated work pursuant to Clause I.123, "Cost Reduction," if included in this contract, and a proposal has been accepted by the Contracting Officer, the Contractor, for each cost reduction incentive proposal, shall maintain separate accounts by CLIN, task order or other suitable accounting procedure, of all incurred segregable costs, both changed and not changed, allocable to the changed work effort set forth in the applicable Cost Reduction Proposal.
- (d) The Contractor shall maintain all such accounts required pursuant to the paragraphs above, in accordance with the Clauses I.117, "Access to and Ownership of Records" and I.79, "DEAR 970.5204-9 Accounts, Records and Inspection," of this contract, but, in no case, for a period of less than three years following the Government's determination of the applicable incentive fee.

H.35 DETERMINATION OF INCENTIVE FEES

It is understood that the incentive fee arrangements under this contract which include incentive types (both cost and performance), number of incentives, amount available under the incentives as well as the method for determining fees earned and method of payment are applicable to the existing work scope for the current fiscal year only. At a reasonable time prior to entering into negotiations for the annual fee negotiations, the Government will examine the benefits received, if any, from the existing incentive fee arrangements and the mechanisms for implementation for effectiveness and ease of administration. The Government shall unilaterally determine if any or all of the incentive fees should continue at all, in part, or in their present form. At that time the Contracting Officer will enter into discussions with the Contractor to determine new or changed fee arrangements.

H.36 DEAR 970.70 - AGREEMENTS TO PERFORM NON-DOE ACTIVITIES (DEVIATION)

- (a) Subject to the prior written approval of the Contracting Officer, and in compliance with applicable requirements imposed by the Contracting Officer pursuant to Clause I.116 DEAR 970.5204-78, "Laws Regulations and DOE Directives," the Contractor may, perform non-DOE activities which are consistent with and complementary to the DOE's mission involving the use of Contract equipment, facilities, or personnel. Such proposed work may be for non-Federal entities or other Federal agencies. The request for such approval shall set forth in detail the nature of the outside work to be performed, the equipment, facilities or personnel required, and the financial and contractual arrangements proposed to pay for the cost of such work. The Contracting Officer shall consider such a request, being guided, among other factors, by the current or future needs of DOE's programs for the equipment, facilities, or personnel to be utilized in the performance of such outside work. Primary considerations in approving such work are that the

proposed work will not place the Contractor in direct competition with domestic non-Federal entities, will not adversely impact execution of the Contractor's assigned programs, and will not create a potentially detrimental future burden on commitment of DOE resources. If the Contracting Officer approves such a request, the Contractor and DOE shall agree upon the terms and conditions which would apply to such work. This agreement may provide for receipt by the Government of all or part of such sum as represents the payment to be received by the Contractor for such outside work; provided, however, that DOE may contribute the use of certain equipment, facilities, or personnel to the Contractor for the performance of such outside work if it determines that it desires to foster the activity in some measure. Except as otherwise approved by DOE, all Articles of this contract shall be deemed to be applicable to the performance of such work. This clause shall not be construed as amending or superseding the requirements of Section C, Statement of Work.

- (b) The Contractor shall promptly advise the Contracting Officer of any advance notices of, or solicitations for, a major system acquisition requirement received from other Federal agencies pursuant to FAR 34.005 which would logically involve DOE facilities or resources operated or managed by the Contractor. The Contractor shall not respond to or otherwise propose to participate in the response to the requirements of such solicitation unless the Contractor has obtained written approval of the Contracting Officer.
- (c) The Contractor is permitted to provide advance payment utilizing Contractor funds for reimbursable work to be performed by the Contractor for non-Federal entities in instances where advance payment from that entity is required pursuant to DOE policy and such advance cannot be obtained. The Contractor is also permitted to advance continuation funding utilizing Contractor funds for Federal entities when the term, or the funds on a federal interagency agreement have elapsed. Any uncollectible receivables resulting from the Contractor utilizing its own funding shall be the responsibility of the Contractor and the United States Government shall not have any liability to the Contractor.

H.37 TECHNICAL DIRECTION OF CONTRACTOR'S TEAMING SUBCONTRACTOR'S

- (a) Contractor and its teaming partners, Lockheed Martin and Johnson Controls, have entered into a contractual relationship as Prime and Subcontractors to operate and manage the facilities and programs of the Department of Energy as specified in Section C of this contract on an integrated team basis. It is understood and agreed to by DOE and Contractor that technical direction to Contractor may be provided to appropriate personnel of Lockheed Martin and Johnson Controls by DOE pursuant to Clause H.24, "Technical Direction," and that such technical direction shall have the same effect, and be subject to the same limitations, as if provided directly to Contractor. Notwithstanding the foregoing, no privity of contract exists or is created between DOE and either Lockheed Martin or Johnson Controls by virtue of such rights of technical direction.
- (b) Any personnel loaned or seconded to Contractor or its teaming subcontractors Lockheed Martin and/or Johnson Controls who are serving in applicable positions shall also be employees subject to technical direction by DOE in accordance with Clause H.24, "Technical Direction."

- (c) Contractor shall include a provision in its subcontracts with Lockheed Martin and Johnson Controls to require each of them to take technical direction from DOE as appropriate in accordance with this provision and Clause H.24, "Technical Direction" of the prime contract.

H.38 CONTRACTOR AFFILIATED SOURCES

It is recognized that the technical and staffing requirements of the Contractor will vary during the performance of this Contract. The technical and staff support capabilities of the Contractor and its affiliates were proposed and recognized in the competitive selection process. Therefore, the Contractor may obtain direct support from affiliates to meet technical and staffing requirements on an as-needed basis. The process and procedure for utilizing support from affiliates shall be approved by the Contracting Officer.

Services from an approved Contractor affiliate will be at cost without additional fee or profit. Allowable cost will include direct costs and all allocable affiliate indirect costs in accordance with applicable DCAA cost principles and cost accounting standards. Temporary assignments of Contractor affiliate personnel to the NTS Site or other sites identified in this Contract shall bear indirect costs based upon a DCAA recommended/approved offsite rate that excludes home office facilities related costs. However, in the event a DCAA recommended/approved offsite rate does not exist for a specific Contractor affiliate, the Contractor affiliate shall not be required to develop an offsite rate unless the temporary assignment exceeds 6 months.

Contractor's affiliates providing such services and personnel shall perform the work in accordance with applicable terms and conditions of the Contract.

H.39 DEFINITION OF MANAGERIAL PERSONNEL

- (a) The term "Contractor's Managerial Personnel" as used in this Contract (Clauses I.82, "Allowable Costs and Fixed Fee (Management and Operating Contracts)," Clause I.88, "Property," Clause I.95, "Insurance - Litigation and Claims") shall be limited to personnel serving in the following management positions:
 - (i) The President and General Manager of Bechtel Nevada Corporation;
 - (ii) The Deputy General Manager for Programs;
 - (iii) The Deputy General Manager for Services;
 - (iv) The Assistant General Manager for National Security Response;
 - (v) The Assistant General Manager for Stockpile Stewardship;
 - (vi) The Assistant General Manager for Defense & Civil Projects;
 - (vii) The Assistant General Manager for Environmental Management;
 - (viii) The Assistant General Manager for Nevada Operations , and
 - (ix) The Assistant General Manager for Site Services;
- (b) The Contractor and Government shall negotiate changes in the above list as necessary to address changes in Contractor's organization or in the scope of work under the contract.

H.40 CLARIFICATION FOR PREEXISTING CONDITIONS AND NUCLEAR HAZARDS INDEMNITY AGREEMENT CLAUSES

The phrase "and notwithstanding any other provision of this Contract" (reference (h) of Clause I.95, "Insurance - Litigation and Claims") does not apply to Clauses I.113, "Preexisting Conditions" or I.73, "Nuclear Hazards Indemnity Agreement".

H.41 PATENT INDEMNITY IN SUBCONTRACTS (SPECIAL)

Except as otherwise authorized by the Contracting Officer, the Contractor shall obtain indemnification of the Government and its officers, agents, and employees against liability, including costs, for infringement of U.S. Letters Patent (except U.S. Letters Patent issues upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) from Contractor's Subcontractors in accordance with 48 CFR 27.203.

H.42 ADDITIONAL TECHNICAL DATA REQUIREMENTS (SPECIAL)

Except as otherwise authorized by the Contracting Officer, the Contractor, pursuant to 48 CFR 27.409(h), shall normally include the clause at 48 CFR 52.227-16 in any subcontract for research, development or demonstration to enable the ordering of technical data as actual need and requirements therefor become known during the course of the subcontract.

H.43 RIGHTS TO PROPOSAL INFORMATION (SPECIAL)

Except as otherwise authorized by the Contracting Officer, the Contractor, pursuant to 48 CFR 27.409(s), shall include the clause of 48 CFR 52.227-23, "Rights to Proposal Data (Technical)," in any subcontract which is awarded based upon the consideration of technical information contained within a proposal.